

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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JENIFFER BEDA and NICOLE GARCIA,
individually and on behalf of all others similarly situated,

Case No. 7:22-cv-04827-NSR-VR

Plaintiffs,
-against-

THE NURTURY AT FLANDREAU, INC., THE
NURTURY OF LARCHMONT, INC., THE
NURTURY MONTESSORI AT NORTH
AVENUE, LLC, BRIANNA BANAHAAN, and
CATHLEEN BILLONE a/k/a CATHY BILLONE,

Defendants.

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DECLARATION OF JUSTIN AMES, ESQ.

I, Justin Ames, an attorney admitted to practice in this Court, pursuant to 28 U.S.C. § 1746, declare under penalty of perjury that the foregoing is true and accurate based upon my knowledge, information and belief:

1. I am an associate attorney at Akin Law Group PLLC, and counsel for Plaintiffs Jeniffer Beda (“Beda”) and Nicole Garcia (“Garcia”), in this matter. I submit this Declaration in support of Plaintiffs’ motion for conditional certification and leave to distribute notice, pursuant to 29 U.S.C. § 216(b).
2. On June 9, 2022, Beda filed a Class and Collective Action Complaint (“Complaint”) on behalf of herself and all other similarly situated employees against her former employers, The Nurtury at Flandreau, Inc., The Nurtury of Larchmont, Inc., The Nurtury Montessori at North Avenue, LLC, Brianna Banahan, and Cathleen Billone a/k/a Cathy Billone (collectively, “Defendants”), asserting, amongst other claims, Defendants’ violations of the minimum wage and overtime provisions of the Fair Labor Standards Act (“FLSA”) and New York Labor Law (“NYLL”). A true and correct copy of the Complaint is attached hereto as **Exhibit 1**.
3. Beda filed a FLSA Consent Form contemporaneously with the filing of the Complaint. A true and correct copy of Beda’s FLSA Consent Form is attached hereto as **Exhibit 2**.
4. On January 8, 2023, the parties participated in mediation in accordance with the Court’s mediation program; however, the parties were unable to resolve any of the claims.

5. On April 24, 2023, Garcia opted into this Collective action by filing an FLSA Consent Form to become a party. A true and correct copy of Garcia's FLSA Consent Form is attached hereto as **Exhibit 3**.
6. On April 24, 2023, contemporaneously with the filing of Garcia's FLSA Consent Form, Plaintiffs timely filed the First Amended Complaint ("FAC") to include Garcia's claims. A true and correct copy of the FAC is attached hereto as **Exhibit 4**.
7. Defendants filed their Answer to the FAC on May 10, 2023.
8. Subsequently, the parties engaged in discovery, which continues.
9. Plaintiffs have identified significant deficiencies with Defendants' document production, including spoliation of crucial evidence discovered during the deposition of Banahan.
10. To date, Defendants' counsel has not consented to stipulate to conditional certification. As such, Plaintiffs now move for conditional certification.
11. A true and correct copy of Beda's Declaration is attached hereto as **Exhibit 5**.
12. A true and correct copy of Garcia's Declaration is attached hereto as **Exhibit 6**.
13. A true and correct copy of Defendants' website (<https://thenurtury-montessori.com>) as of November 26, 2019, is attached hereto as **Exhibit 7**.
14. On November 26, 2019, I reviewed Defendants' website, which embeds several YouTube videos, including a video marketing the Defendant entities collectively as "The Nurtury Montessori School", referring to the Individual Defendants as the owners, offering services to children ages 6 weeks to six years old (rather than any one entity by age group), and referring to a "new Rye Brook location" on North Ridge Street.
15. A proposed FLSA collective action notice of pendency is attached as **Exhibit 8**.
16. A proposed FLSA collective action notice of pendency reminder is attached as **Exhibit 9**.
17. A proposed email, which will contain the FLSA collective action notice of pendency or reminder notice, when appropriate, as an email attachment, is attached hereto as **Exhibit 10**.
18. During the litigation, Defendants consented to a toll of the statute of limitations for prospective opt-in plaintiffs' claims, effective May 9, 2023.

Dated: December 4, 2023
New York, New York

Respectfully submitted,

AKIN LAW GROUP PLLC

/s/ Justin Ames

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*Attorneys for Plaintiffs and the FLSA
Collective*